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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/449,185	11/24/1999	LARRY G. MICHALEWICZ	062891.0342	5978

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EXAMINER

NGUYEN, BRIAN D

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/449,185

**Applicant(s)**

MICHALEWICZ ET AL.

**Examiner**

Brian D Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed 12/15/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-49 and 51-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-16, 18-24, 26-30, 32-39, 43-49 and 51-59 is/are rejected.
- 7) ☒ Claim(s) 7-9, 25, 31 and 40-42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                        |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 29-30 and 56-57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 29 recites the limitation "the received payload sections" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 56 and 57 recite the limitation "the incoming payload sections" in line 3. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 10-16, 18-24, 26-30, 32-36, 43-49, 51-59 are rejected under 35 U.S.C. 102(e) as being anticipated by Caves (6,266,343).

Regarding claims 1-3, Caves discloses a method for enabling communication between a plurality of telephone devices comprising receiving incoming media packets from each telephone device (user1 and user2 of figure 2); dividing payload section into data segments; mixing the

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data segments from two or more telephone devices (user1 and user2) to create an data segment; and constructing an outgoing payload portion for one or more of the telephone devices (see figure 2 where variable length packets from users 1 and 2 are combined to form a CPS-PDU; see col. 2, lines 41-49; col. 3, lines 3-49; col. 4, lines 13-31). Caves does not explicitly disclose that the combined packets of user1 and user2 formed at the IWF is an aggregate data packets.

However, it is well known that a packet formed by combining packets from a plurality of users at an IWF is a aggregate packet. Turner uses the term aggregate to describe the combined packet.

Regarding claims 10-14, Caves discloses dividing a payload section into a complete segment, full segments of equal size, and a remainder segment; and constructing outgoing payload sections by linking the remainder segment, full segments, and a portion of another segment (see figures 2 & 4 and col. 4, lines 13-31 where data packets from user 1 and user 2 are segmented and outgoing payload sections are constructed).

Regarding claims 15-16, 18-21, claim 15-16, 18-21 are method claims that have substantially all the limitations of method claims 1-2, 10-14. Therefore, they are subject to the same rejection.

Regarding claims 22, claim 22 is apparatus claims that have substantially all the limitation of the respective method claim 1. Therefore, they are subject to the same rejection.

Regarding claims 23-24, Caves in view of Turner do not specifically disclose the use of G.711. However, to use encoder G.711 or any other standards is a matter of choice in order to meet specific needs.

Regarding claims 26-27, claims 26-27 are apparatus claims that have substantially all the limitation of the respective method claims 10-12. Therefore, they are subject to the same rejection.

Regarding claim 28, claim 28 is network claims that have substantially all the limitation of the respective apparatus claim 22. Therefore, they are subject to the same rejection.

Regarding claims 29-30, claims 29-30 is a network claim that has substantially all the limitation of the respective apparatus claims 23-24. Therefore, it is subject to the same rejection.

Regarding claims 32-33, claims 32-33 are network claims that have substantially all the limitation of the respective apparatus claims 26-27. Therefore, they are subject to the same rejection.

Regarding claims 34-36, claims 34-36 are computer claims that have substantially all the limitation of the respective method claims 1-3. Therefore, they are subject to the same rejection.

Regarding claims 43-47, claims 43-47 are computer claims that have substantially all the limitation of the respective method claims 10-14. Therefore, they are subject to the same rejection.

Regarding claims 48-49, 51-54, claims 48-49, 51-54 are computer claims that have substantially all the limitations of the respective method claims 15-16, 18-21. Therefore, they are subject to the same rejection.

Regarding claim 55, claim 55 is apparatus claims that have substantially all the limitation of the respective apparatus claim 22. Therefore, they are subject to the same rejection.

Regarding claims 56-57, claims 56-57 is an apparatus claim that has substantially all the limitation of the respective method claims 23-24. Therefore, it is subject to the same rejection.

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Regarding claims 58-59, claims 58-59 are apparatus claims that have substantially all the limitations of the respective apparatus claims 26-27. Therefore, they are subject to the same rejection.

5. Claims 4-6 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caves (6,266,343) in view of Turner et al (6,438,137) as applied to claims 1 and 34 above, and further in view of Robinett et al (6,351,471).

Regarding claims 4-6, Caves in view of Turner disclose all the claimed subject matter as described in previous paragraph except for inserting silence placeholders to fill a time interval during which no incoming media packets are received from a particular telephone device. However, Robinett discloses filling a time interval during which no incoming media packets are received from a particular telephone device with silence placeholders (see col. 5, lines 48-50 and col. 10, lines 27-44). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to fill the time interval with placeholders as taught by Robinett in the system of Caves in view of Turner in order to maintain the bit rate and prevent buffer underflow.

Regarding claims 37-39, claims 37-39 are computer claims that have substantially all the limitation of the respective method claims 4-6. Therefore, they are subject to the same rejection.

***Allowable Subject Matter***

6. Claims 7-9, 25, 31, and 40-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Response to Arguments***

7. Applicant's arguments filed 12/15/03 have been fully considered but they are not persuasive.

The applicant argued that Caves fails to disclose mixing the data segments from two or more of the telephone devices to create an aggregate data segment. The examiner disagrees because Caves does disclose mixing the data segments from two or more of the telephone devices (user1 and user2) to create an aggregate data segment (CPS-PDU and ATM cell) at the IWF1.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (703) 305-5133. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on (703) 305-4703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



Brian Nguyen  
1/31/04